



February 22, 2008

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## ENGROSSED SENATE BILL No. 329

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DIGEST OF SB 329 (Updated February 20, 2008 7:20 pm - DI 92)

**Citations Affected:** IC 5-10.2; IC 5-10.3; IC 33-23; IC 33-34; IC 33-37; IC 33-38; noncode.

**Synopsis:** Judges' pensions. Allows a person serving as a full-time magistrate on July 1, 2010, and requires a person who begins serving as a full-time magistrate after that date, to become a participant in the judges' 1985 benefit system (1985 system). Allows under certain conditions a judge who is a participant in the 1985 system to transfer to the 1985 system service credit earned as a full-time referee, commissioner, or magistrate after leaving a position covered by the 1985 system. Allows under certain conditions a magistrate who is a participant in the 1985 system to purchase, at full actuarial cost, service credit for service earned in the public employees' retirement fund as a full-time magistrate, referee, or commissioner. For certain participants in the 1985 system who apply for a retirement benefit after December 31, 2009, bases the computation of the annual retirement benefit on the  
(Continued next page)

**Effective:** July 1, 2008.

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**Kruse, Mishler, Deig, Hume, Tallian,  
Broden, Simpson**

(HOUSE SPONSORS — VAN HAAFTEN, BUELL, ULMER, LAWSON L)

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January 10, 2008, read first time and referred to Committee on Pensions and Labor.  
January 17, 2008, reported favorably — Do Pass; reassigned to Committee on Appropriations.  
January 24, 2008, reported favorably — Do Pass.  
January 28, 2008, read second time, ordered engrossed.  
January 29, 2008, engrossed. Read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 4, 2008, read first time and referred to Committee on Labor and Employment, reassigned to Committee on Judiciary.  
February 21, 2008, amended, reported — Do Pass.

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salary being paid for the office that the participant held at the time of the participant's separation from service. (Currently, the computation is based on the salary being paid to the participant at the time of the participant's separation from service.) Provides that benefit increases paid after December 31, 2009, to a participant in the 1985 system who applies for a retirement benefit before January 1, 2010, or to certain terminated vested participants, are equal to the percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service increases. Increases the court administration fee from \$3 to \$5, and directs that the additional amount be paid into the judges' retirement fund, except for the additional amount collected by the Marion County small claims courts, which must be used to fund the small claims courts' operations. Reduces from ten to eight the number of years of creditable service a member of the public employees' retirement fund must earn to obtain vested status. (The introduced version of this bill was prepared by the pension management oversight commission.)

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February 22, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 329

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2008]: Sec. 8. (a) ~~Except as provided in subsection (b), For~~  
4 ~~a member of:~~

5 (1) **the Indiana state teachers' retirement fund; or**

6 (2) **the public employees' retirement fund who retires before**  
7 **January 1, 2009;**

8 "vested status" as used in this article means the status of having ten  
9 (10) years of creditable service.

10 (b) **For a member of the public employees' retirement fund who**  
11 **retires after December 31, 2008, "vested status" as used in this**  
12 **article means the status of having at least eight (8) years of**  
13 **creditable service.**

14 ~~(b)~~ (c) In the case of a person who is an elected county official  
15 whose governing body has provided for the county official's  
16 participation in the public employees' retirement fund under  
17 IC 5-10.3-7-2(1), "vested status" means the status of having:

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(1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

(2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or

(3) **after December 31, 2008**, at least ~~ten (10)~~ **eight (8)** years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

~~(c)~~ **(d)** In the case of a person whose term of office commences after the election on November 5, 2002, as Auditor of State, Secretary of State, or Treasurer of State, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

SECTION 2. IC 5-10.2-3-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. (a) **After December 31, 2008**, a member who has earned at least:

**(1) eight (8) years of service in a position covered by PERF; or**

**(2) ten (10) years of service in a position covered by ~~PERF~~, TRF or a combination of the two (2) funds;**

may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

(1) Contributions that are equal to the product of the following:

(A) The member's salary at the time the member actually makes a contribution for the service credit.

(B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(C) The number of years of service credit the member intends to purchase.

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(2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and

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(d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 3. IC 5-10.2-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This subsection applies to:

(1) members of the public employees' retirement fund who retire before July 1, 1995; and

(2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, and to members of the public employees' retirement fund who retire after June 30, 1995, **and before January 1, 2009**, except as provided in section 1.7 of this chapter. A member is eligible for normal retirement if:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

**(c) This subsection applies to a member of the public employees' retirement fund who retires after December 31, 2008. A member is eligible for normal retirement if:**

**(1) the member is at least sixty-five (65) years of age and has at least eight (8) years of creditable service;**

**(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or**

**(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.**

~~(c)~~ (d) A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

~~(d)~~ (e) A member who is eligible for normal or early retirement is

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entitled to choose a retirement date on which the member's benefit begins if the following conditions are met:

(1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.

(2) The date must be after the cessation of the member's service and be the first day of a month.

(3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the member became incompetent.

SECTION 4. IC 5-10.2-4-1.7, AS AMENDED BY P.L.88-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.7. (a) This section applies only to members of the public employees' retirement fund who retire after June 30, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 2 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as an elected county official; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in ~~IC 5-10.2-1-8(b)(3))~~ **IC 5-10.2-1-8(c)(3))** and meets the requirements of section 1 of this chapter.

SECTION 5. IC 5-10.3-3-1, AS AMENDED BY P.L.62-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The board is composed of six (6) trustees.

(b) Five (5) of the trustees shall be appointed by the governor, as follows:

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(1) One (1) must be a member of the fund with at least ~~ten (10)~~  
**eight (8)** years of creditable service.

(2) Not more than three (3) may be members of the same political party.

(3) One (1) must be:

(A) a:

(i) member of the fund or retired member of the fund; or

(ii) member of a collective bargaining unit of state employees represented by a labor organization; or

(B) an individual who is:

(i) an officer or a member of a local, a national, or an international labor union that represents state or university employees; and

(ii) an Indiana resident.

(c) The director of the budget agency or the director's designee is an ex officio voting member of the board. An individual appointed under this subsection to serve as the director's designee:

(1) is subject to the provisions of section 3 of this chapter; and

(2) serves as a permanent designee until replaced by the director.

(d) The governor shall fill by appointment vacancies on the board in the manner described in subsection (b).

(e) In making the appointments under subsection (b)(1) or (b)(2), the governor may consider whether at least one (1) trustee is a retired member of the fund under subsection (b)(3)(A)(i).

SECTION 6. IC 5-10.3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

(1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

(3) Stop the political subdivision's participation in the fund by:

(A) selling all of the political subdivision's assets; or

(B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

(1) The withdrawing political subdivision has provided written

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notice of the following to the board:

(A) The withdrawing political subdivision's intent to cease participation.

(B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.

(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through (h).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be

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made in a lump sum or in a series of payments determined by the board.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny a political subdivision permission to withdraw if the denial is necessary to achieve compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 7. IC 5-10.3-6-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.5. (a) This section only applies if:

(1) certain employees of a state university in a departmental, occupational, or other definable classification involved in health care are terminated from employment with the state university as a result of:

(A) a lease or other transfer of university property to a nongovernmental entity; or

(B) a contractual arrangement with a nongovernmental entity to perform certain state university functions;

(2) the state university requests coverage under this section from the board; and

(3) the board approves the request.

(b) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The state university has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state university to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state university fully complies with subsection (c).

(c) A member who is an employee of the state university described in subsection (a) as of the date of the notice under subsection (b) and who is listed in the notice under subsection (b) is vested in the pension portion of the member's retirement benefit. The state university must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state

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1 university must be made in a lump sum or in a series of payments  
2 determined by the board.

3 (d) A member who is covered by subsection (c) and who is at least  
4 sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even  
5 if the member has less than ~~ten (10)~~ **eight (8)** years of service. The  
6 benefit for the member shall be computed under IC 5-10.2-4-4 using  
7 the member's actual years of creditable service.

8 (e) The board shall evaluate each withdrawal under this section to  
9 determine if the withdrawal affects the fund's compliance with Section  
10 401(a) of the Internal Revenue Code of 1954, as in effect on September  
11 1, 1974. The board may deny an employee permission to withdraw if  
12 the denial is necessary to achieve compliance with Section 401(a) of  
13 the Internal Revenue Code of 1954, as in effect on September 1, 1974.

14 SECTION 8. IC 5-10.3-6-8.9, AS ADDED BY P.L.158-2006,  
15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2008]: Sec. 8.9. (a) This section applies when certain  
17 employees of the state in particular departmental, occupational, or  
18 other definable classifications are terminated from employment with  
19 the state as a result of:

- 20 (1) a lease or other transfer of state property to a nongovernmental
- 21 entity; or
- 22 (2) a contractual arrangement with a nongovernmental entity to
- 23 perform certain state functions.

24 (b) The governor shall request coverage under this section from the  
25 board whenever an employee of the state is terminated as described in  
26 subsection (a).

27 (c) The board must approve a request from the governor under  
28 subsection (b) unless approval violates subsection (k), federal or state  
29 law, or the terms of the fund.

30 (d) As used in this section, "early retirement" means a member is  
31 eligible to retire with a reduced pension under IC 5-10.2-4-1, because  
32 the member:

- 33 (1) is at least fifty (50) years of age; and
- 34 (2) has at least fifteen (15) years of creditable service.

35 (e) As used in this section, "normal retirement" means a member is  
36 eligible to retire under IC 5-10.2-4-1, because:

- 37 (1) the member is at least sixty-five (65) years of age and has at
- 38 least ~~ten (10)~~ **eight (8)** years of creditable service;
- 39 (2) the member is at least sixty (60) years of age and has at least
- 40 fifteen (15) years of creditable service; or
- 41 (3) the member's age in years plus the member's years of service
- 42 is at least eighty-five (85) and the member is at least fifty-five

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- 1 (55) years of age.
- 2 (f) The withdrawal of the employees described in subsection (a)
- 3 from the fund is effective on a termination date established by the
- 4 board. The board may not establish a termination date that occurs
- 5 before all of the following have occurred:
- 6 (1) The governor has requested coverage under this section and
- 7 provided written notice of the following to the board:
- 8 (A) The intent of the state to terminate the employees from
- 9 employment.
- 10 (B) The names of the terminated employees as of the date that
- 11 the termination is to occur.
- 12 (2) The expiration of a thirty (30) day period following the filing
- 13 of the notice with the board.
- 14 (3) The state complies with subsections (g) and (i).
- 15 (g) A member who:
- 16 (1) is an employee of the state described in subsection (a) with at
- 17 least twenty-four (24) months of creditable service as of the date
- 18 of the notice under subsection (f); and
- 19 (2) is listed in the notice under subsection (f);
- 20 is vested in the pension portion of the member's retirement benefit. The
- 21 state must contribute to the fund the amount the board determines is
- 22 necessary to completely fund the vested benefit. The contribution by
- 23 the state must be made in a lump sum or in a series of payments
- 24 determined by the board. The benefit for the member shall be
- 25 computed under IC 5-10.2-4-4 using the member's actual years of
- 26 creditable service.
- 27 (h) A member who is covered by subsection (g) and who is at least
- 28 sixty-five (65) years of age as of the date of the notice under subsection
- 29 (f) may elect to retire under IC 5-10.2-4-1 even if the member has less
- 30 than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member
- 31 shall be computed under IC 5-10.2-4-4 using the member's actual years
- 32 of creditable service.
- 33 (i) A member who is covered by subsection (f) and who, as of the
- 34 date of the notice under subsection (f), is less than twenty-four (24)
- 35 months from being eligible for normal or early retirement under
- 36 IC 5-10.2-4-1 may elect to retire by purchasing the service credit
- 37 needed for retirement under the following conditions:
- 38 (1) The state shall contribute to the fund an amount determined
- 39 under IC 5-10.2-3-1.2 and payable from the sources described in
- 40 subsection (j) sufficient to pay the member's contributions
- 41 required for the member's purchase of the service credit the
- 42 member needs to retire.

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(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the fund under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 9. IC 5-10.3-7-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

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(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit.

The board shall determine the length of the period during which the payments must be made.

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(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 10. IC 5-10.3-7-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.6. (a) Subject to the provisions of this section, a member may purchase service credit for the member's prior service in a position covered by the 1925 police pension fund under IC 36-8-6, the 1937 firefighters' pension fund under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5 if the member meets the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has not attained vested status in and is not an active member of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund.

(3) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member has received verification from the fund that the service in the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund is, as of that date, valid.

(b) At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required

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before a member may receive a benefit based on service credits purchased under this section.

(c) A member who:

- (1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or
- (2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(d) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 11. IC 5-10.3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A member who:

- (1) enters the United States armed services;
- (2) leaves ~~his~~ **the member's** contributions in the fund;
- (3) except as provided in subsection (c), resumes service with ~~his~~ **the member's** employer within one hundred twenty (120) days after ~~his~~ **the member's** unconditional discharge; and
- (4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if ~~he~~ **the employee**:

- (1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after ~~his~~ **the**

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**employee's unconditional discharge; and**

(2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member

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1 actually makes a contribution for service credit and  
 2 computed to result in a contribution amount that  
 3 approximates the actuarial present value of the benefit  
 4 attributable to the service credit purchased.

5 (iii) The number of years of service credit the member  
 6 intends to purchase.

7 (B) Contributions for any accrued interest, at a rate determined  
 8 by the actuary of the fund, for the period from the member's  
 9 initial membership in the fund to the date payment is made by  
 10 the member.

11 However, a member is entitled to purchase service credit under this  
 12 subsection only to the extent that service credit is not granted for that  
 13 time under another provision of this section. At least ~~ten (10)~~ **eight (8)**  
 14 years of service in Indiana is required before a member may receive a  
 15 benefit based on service credits purchased under this section. A  
 16 member who terminates employment before satisfying the eligibility  
 17 requirements necessary to receive a monthly allowance or receives a  
 18 monthly allowance for the same service from another tax supported  
 19 public employee retirement plan other than under the federal Social  
 20 Security Act may withdraw the purchase amount plus accumulated  
 21 interest after submitting a properly completed application for a refund  
 22 to the fund.

23 (g) The following apply to the purchase of service credit under  
 24 subsection (f):

25 (1) The board may allow a member to make periodic payments of  
 26 the contributions required for the purchase of the service credit.  
 27 The board shall determine the length of the period during which  
 28 the payments must be made.

29 (2) The board may deny an application for the purchase of service  
 30 credit if the purchase would exceed the limitations under Section  
 31 415 of the Internal Revenue Code.

32 (3) A member may not claim the service credit for purposes of  
 33 determining eligibility or computing benefits unless the member  
 34 has made all payments required for the purchase of the service  
 35 credit.

36 SECTION 12. IC 33-23-5-13 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. **(a) Except as**  
 38 **provided in subsection (b),** a magistrate may:

39 (1) participate in the public employees' retirement fund as  
 40 provided in IC 5-10.3; or

41 (2) elect to remain in the judges' retirement system under  
 42 IC 33-38 if the magistrate had previously participated in the

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system.

**(b) A person who:**

**(1) is serving as a full-time magistrate on July 1, 2010, and makes an election under IC 33-38-8-10.5; or**

**(2) begins serving as a full-time magistrate after July 1, 2010; shall, beginning January 1, 2011, participate in the judges' 1985 benefit system under IC 33-38-8.**

SECTION 13. IC 33-34-8-3, AS AMENDED BY P.L.174-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the \_\_\_\_\_ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

**(b) The court shall:**

**(1) semiannually distribute to the auditor of state:**

**(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the state user fee fund established under IC 33-37-9;**

**(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;**

**(C) sixty percent (60%) of all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;**

**(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; and**

**(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and**

**(2) distribute monthly to the county auditor all document storage fees received by the court.**

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

**(c) The court semiannually shall pay to the township trustee of**

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1 the township in which the court is located the remaining forty  
 2 percent (40%) of the court administration fees described under  
 3 subsection (b)(1)(C) to fund the operations of the small claims  
 4 court in the trustee's township.

5 SECTION 14. IC 33-37-5-27, AS AMENDED BY P.L.80-2006,  
 6 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2008]: Sec. 27. (a) This subsection does not apply to the  
 8 following:

- 9 (1) A criminal proceeding.
- 10 (2) A proceeding to enforce a statute defining an infraction.
- 11 (3) A proceeding for an ordinance violation.

12 In each action filed in a court described in IC 33-37-1-1, and in each  
 13 small claims action in a court described in IC 33-34, the clerk shall  
 14 collect a court administration fee of ~~three~~ five dollars ~~(\$3)~~: **(\$5)**.

15 (b) In each action in which a person is:

- 16 (1) convicted of an offense;
- 17 (2) required to pay a pretrial diversion fee;
- 18 (3) found to have committed an infraction; or
- 19 (4) found to have violated an ordinance;

20 the clerk shall collect a court administration fee of ~~three~~ five dollars  
 21 ~~(\$3)~~: **(\$5)**.

22 SECTION 15. IC 33-37-7-2, AS AMENDED BY P.L.174-2006,  
 23 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2008]: Sec. 2. (a) The clerk of a circuit court shall distribute  
 25 semiannually to the auditor of state as the state share for deposit in the  
 26 state general fund seventy percent (70%) of the amount of fees  
 27 collected under the following:

- 28 (1) IC 33-37-4-1(a) (criminal costs fees).
- 29 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 30 (3) IC 33-37-4-3(a) (juvenile costs fees).
- 31 (4) IC 33-37-4-4(a) (civil costs fees).
- 32 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 33 (6) IC 33-37-4-7(a) (probate costs fees).
- 34 (7) IC 33-37-5-17 (deferred prosecution fees).

35 (b) The clerk of a circuit court shall distribute semiannually to the  
 36 auditor of state for deposit in the state user fee fund established in  
 37 IC 33-37-9-2 the following:

- 38 (1) Twenty-five percent (25%) of the drug abuse, prosecution,  
 39 interdiction, and correction fees collected under  
 40 IC 33-37-4-1(b)(5).
- 41 (2) Twenty-five percent (25%) of the alcohol and drug  
 42 countermeasures fees collected under IC 33-37-4-1(b)(6),

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IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 4-23-25-11(i) one hundred percent (100%)

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of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

**(i) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34.** The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as

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follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

SECTION 16. IC 33-37-7-9, AS AMENDED BY P.L.174-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~eight~~ **nine** million two hundred seventy-seven thousand twenty-three dollars (~~\$8,277,023~~) (**\$9,277,023**) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eight and ~~ninety-nine hundredths~~ **three-hundredths** percent (~~8.99%~~); (**8.03%**);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~thirty-one~~ **thirty-eight** and ~~eighteen~~ **fifty-five** hundredths percent (~~31.18%~~); (**38.55%**);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and ~~eighty-six~~ **fifty-six** hundredths percent (~~2.86%~~); (**2.56%**);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~eleven~~ **ten** and ~~fifty-one~~ **twenty-seven** hundredths percent (~~11.51%~~); (**10.27%**);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~thirteen~~ **eleven** and ~~thirty-seven~~ **ninety-three** hundredths percent (~~13.37%~~); (**11.93%**);

(6) the motor vehicle highway account an amount equal to ~~twenty-one~~ **nineteen** and ~~eighty-four~~ **forty-nine** hundredths

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percent ~~(21.84%)~~; **(19.49%)**;

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~twenty-seven~~ **twenty-five** hundredths percent ~~(.27%)~~; **(0.25%)**;

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and ~~eighty-two~~ **sixty-three** hundredths percent ~~(1.82%)~~; **(1.63%)**; and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to ~~eight seven and sixteen~~ **twenty-nine** hundredths percent ~~(8.16%)~~; **(7.29%)**;

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and

(2) after June 30, 2005, two million seven hundred thousand dollars (\$2,700,000).

SECTION 17. IC 33-38-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 18. IC 33-38-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953; or, after December 31, 2010, a judge or full-time magistrate,~~ and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 19. IC 33-38-6-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) A judge **or, after December 31, 2010, a judge or full-time magistrate,** is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate,** is not entitled to more than one (1)

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month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

**(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:**

**(1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and**

**(2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.**

SECTION 20. IC 33-38-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of an Indiana public employees' retirement fund;

(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 18 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system

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as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

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SECTION 21. IC 33-38-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies only to an individual who:

- (1) begins service as a judge after August 31, 1985;
- (2) **is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter; or**
- (3) **begins service as a full-time magistrate after July 1, 2010.**

SECTION 22. IC 33-38-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 23. IC 33-38-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953; or, after December 31, 2010, a judge or full-time magistrate,~~ and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 24. IC 33-38-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A person who:

- (1) begins service as a judge after August 31, 1985; and
- (2) is not a participant in the fund;

shall become a participant in the fund.

(b) **A person who is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter is, beginning January 1, 2011, a participant in the judges' 1985 benefit system under this chapter.**

(c) **A person who begins serving as a full-time magistrate after July 1, 2010, is a participant in the judges' 1985 benefit system under this chapter beginning on the later of the following:**

- (1) **January 1, 2011.**
- (2) **The date the person begins service as a full-time magistrate.**

SECTION 25. IC 33-38-8-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.5. A person who is serving as a full-time magistrate on July 1, 2010, may elect to become a member of the judges' 1985 benefit system under this chapter. An election under this section:**

- (1) **must be made in writing;**

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1           **(2) must be filed with the board, on a form prescribed by the**  
 2           **board, before October 1, 2010; and**  
 3           **(3) is irrevocable.**

4           SECTION 26. IC 33-38-8-11 IS AMENDED TO READ AS  
 5           FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A participant  
 6           shall make contributions to this fund of six percent (6%) of each  
 7           payment of salary received for services as judge **or, after December**  
 8           **31, 2010, as a judge or full-time magistrate.** However, the employer  
 9           may elect to pay the contribution for the participant as a pickup under  
 10          Section 414(h) of the Internal Revenue Code.

11          (b) Participants' contributions, other than participants' contributions  
 12          paid by the employer, shall be deducted from the monthly salary of  
 13          each participant by the auditor of state and by the county auditor and  
 14          credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22.  
 15          However, a contribution is not required:

- 16           (1) because of any salary received after the participant has  
 17           contributed to the fund for twenty-two (22) years; or  
 18           (2) during any period that the participant is not serving as judge  
 19           **or, after December 31, 2010, as a judge or full-time**  
 20           **magistrate.**

21          SECTION 27. IC 33-38-8-12 IS AMENDED TO READ AS  
 22          FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A participant  
 23          who:

- 24           (1) ceases service:  
 25           (A) as a judge; or  
 26           **(B) after December 31, 2010, as a judge or full-time**  
 27           **magistrate;**  
 28           other than by death or disability; and  
 29           (2) is not eligible for a retirement benefit under this chapter;

30          is entitled to withdraw from the fund, beginning on the date specified  
 31          by the participant in a written application. The date on which the  
 32          withdrawal begins may not be before the date of final termination of  
 33          employment or the date thirty (30) days before the receipt of the  
 34          application by the board.

35          (b) Upon the withdrawal, the participant is entitled to receive the  
 36          total sum contributed, payable within sixty (60) days from **the** date of  
 37          **the** withdrawal application or in monthly installments as the participant  
 38          may elect.

39          SECTION 28. IC 33-38-8-13, AS AMENDED BY P.L.28-2005,  
 40          SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41          JULY 1, 2008]: Sec. 13. A participant whose employment as a judge  
 42          **or, after December 31, 2010, as a judge or full-time magistrate, is**

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terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a written application, if the following conditions are met:

- (1) The date on which the benefit begins is not:
  - (A) before the date of final termination of employment of the participant; or
  - (B) the date thirty (30) days before the receipt of the application by the board.
- (2) The participant:
  - (A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;
  - (B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or
  - (C) has become permanently disabled.
- (3) The participant is not receiving a salary from the state for services currently performed as:
  - (A) a judge (as defined in IC 33-38-6-7); or
  - (B) a magistrate under IC 33-23-5.

SECTION 29. IC 33-38-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:

- (1) applies for a retirement benefit; and
- (2) is at least:
  - (A) sixty-five (65) years of age; or
  - (B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

- (1) the **applicable salary that was paid to the participant at the time of separation from service; determined under subsection (e)**; multiplied by
- (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%

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1	11	33%
2	12	50%
3	13	51%
4	14	52%
5	15	53%
6	16	54%
7	17	55%
8	18	56%
9	19	57%
10	20	58%
11	21	59%
12	22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;
- (2) survivors of participants who die while in service after August 1, 1992; or
- (3) survivors of participants who die while not in service but while entitled to a future benefit.

**(e) The applicable salary is one (1) of the following:**

**(1) The salary that was being paid to the participant at the time of the participant's separation from service for:**

**(A) a participant who applies to receive a retirement benefit from the fund before January 1, 2010; or**

**(B) a participant who:**

- (i) before January 1, 2010, separates from service;**
- (ii) is entitled to receive a retirement benefit from the fund, but does not apply before January 1, 2010, to receive a retirement benefit; and**
- (iii) does not earn any service credit in the fund after December 31, 2009.**

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(2) The salary being paid for the office that the participant held at the time of the participant's separation from service for a participant who:

(A) applies to receive a benefit after December 31, 2009; and

(B) is not a participant described in subdivision (1)(B).

SECTION 30. IC 33-38-8-17, AS AMENDED BY P.L.99-2007, SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge **or, after December 31, 2010, as a judge or full-time magistrate;**

(C) had a permanent disability; or

(D) had completed at least eight (8) years of service, was not still in service as a judge **or, after December 31, 2010, as a judge or full-time magistrate,** and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000
July 1, 1997, and thereafter	\$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

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- (1) A surviving spouse is entitled to receive the benefit for life.
- (2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.
- (3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.
- (4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.
- (5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.
- (6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:
- (A) No child or children named as a beneficiary by a participant survives the participant.
  - (B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.
  - (C) A designation is not made.
- (7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 31. IC 33-38-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) A judge **or, after December 31, 2010, a judge or full-time magistrate**, is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate**, is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

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(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

- (1) at any time when the judge is not serving as judge; or
- (2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

- (1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and
- (2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.

SECTION 32. IC 33-38-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) This section applies to a person who:

- (1) is a judge participating under this chapter;
- (2) ~~before becoming a judge~~ was appointed by a court to serve as a full-time referee, full-time commissioner, or, **before January 1, 2011**, full-time magistrate, **either:**

(A) **before becoming a judge; or**

(B) **after leaving an elected term on the bench;**

- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant **as a judge** in the judges' 1985 benefit system under section 1 of this chapter, credit for ~~prior~~ service by the judge as a full-time referee, full-time commissioner, or, **before January 1, 2011**, full-time magistrate shall be granted under this chapter by the board if:

- (1) the ~~prior~~ service was credited under the public employees' retirement fund;
- (2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the ~~prior~~ service liability over a period determined by the board, but not more than ten (10) years; and
- (3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the ~~prior~~ service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not

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1 satisfied, a participant is entitled to credit only for years of service ~~after~~  
 2 ~~the date of participation earned as a participant~~ in the **judges' 1985**  
 3 benefit system.

4 (d) An amortization schedule for contributions paid under  
 5 subsection (b)(2) or (b)(3) must include interest at a rate determined by  
 6 the board.

7 (e) The following provisions apply to a person described in  
 8 subsection (a):

9 (1) A minimum benefit applies to participants receiving credit in  
 10 the judges' 1985 benefit system from service covered by the  
 11 public employees' retirement fund. The minimum benefit is  
 12 payable at sixty-five (65) years of age or when the participant is  
 13 at least fifty-five (55) years of age and meets the requirements  
 14 under section ~~13(2)(b)~~ **13(2)(B)** of this chapter and equals the  
 15 actuarial equivalent of the vested retirement benefit that is:

16 (A) payable to the member at normal retirement under  
 17 IC 5-10.2-4-1 as of the day before the transfer; and

18 (B) based solely on:

19 (i) creditable service;

20 (ii) the average of the annual compensation; and

21 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to  
 22 the annuity savings account of the transferring member as of  
 23 the day before the transfer.

24 (2) If the requirements of subsection (b)(2) and (b)(3) are  
 25 satisfied, the board shall transfer from the public employees'  
 26 retirement fund to the judges' 1985 benefit system the amount  
 27 credited to the annuity savings account and the present value of  
 28 the retirement benefit payable at sixty-five (65) years of age or at  
 29 least fifty-five (55) years of age under section ~~13(2)(b)~~ **13(2)(B)**  
 30 of this chapter that is attributable to the transferring participant.

31 (3) The amount the state and the participant must contribute to the  
 32 judges' 1985 benefit system under subsection (b) shall be reduced  
 33 by the amount transferred to the judges' 1985 benefit system by  
 34 the board under subdivision (2).

35 (4) If the requirements of subsection (b)(2) and (b)(3) are  
 36 satisfied, credit for ~~prior~~ service in the public employees'  
 37 retirement fund as a full-time referee, full-time commissioner, or,  
 38 **before January 1, 2011**, full-time magistrate is waived. Any  
 39 credit for the ~~prior~~ service under the judges' 1985 benefit system  
 40 may be granted only under subsection (b).

41 (f) To the extent permitted by the Internal Revenue Code and the  
 42 applicable regulations, the judges' 1985 benefit system may accept, on

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behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 33. IC 33-38-8-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22.5. (a) This section applies after December 31, 2010, only to a person who:**

**(1) is a full-time magistrate participating under this chapter;**

**(2) was appointed by a court to serve as:**

**(A) a full-time referee or full-time commissioner; or**

**(B) before January 1, 2011, a full-time magistrate;**

**(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and**

**(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).**

**(b) If a person becomes a participant as a full-time magistrate in the judges' 1985 benefit system under section 1 of this chapter, credit for service by the magistrate as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate shall be granted under this chapter by the board if:**

**(1) the service was credited under the public employees' retirement fund; and**

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(2) the magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service earned as a participant in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or before July 1, 2010, full-time magistrate is waived. Any credit for the service

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under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 34. IC 33-38-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) This section applies only to a person who:

(1) is:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;

participating under this chapter;

(2) before becoming:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;

was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the

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1 credited service is not eligible for ~~prior~~ service credit under  
2 section 22 **or 22.5** of this chapter;

3 (4) has not attained vested status under a public employees'  
4 retirement fund for the employment described in subdivision (2);  
5 and

6 (5) has at least eight (8) years of service credit in the judges'  
7 retirement system.

8 (b) If a person becomes a participant in the judges' 1985 benefit  
9 system under this chapter, credit for service described in subsection (a)  
10 shall be granted under this chapter by the board if:

11 (1) the prior service was credited under a public employees'  
12 retirement fund; and

13 (2) the judge **or full-time magistrate** pays in a lump sum or in a  
14 series of payments determined by the board, not exceeding five

15 (5) annual payments, the amount determined by the actuary for  
16 the **judges'** 1985 benefit system as the total cost of the service.

17 (c) If the requirements of subsection (b) are not satisfied, a  
18 participant is entitled to credit only for years of service after the date of  
19 participation in the **judges'** 1985 benefit system.

20 (d) An amortization schedule for contributions paid under this  
21 section must include interest at a rate determined by the board.

22 (e) If the requirements of subsection (b) are satisfied, the  
23 appropriate board shall transfer from the retirement fund described in  
24 subsection (a)(2) to the judges' 1985 benefit system the amount  
25 credited to the judge's **or full-time magistrate's** annuity savings  
26 account and the present value of the retirement benefit payable at  
27 sixty-five (65) years of age that is attributable to the transferring  
28 participant.

29 (f) The amount a participant must contribute to the judges' 1985  
30 benefit system under subsection (b) shall be reduced by the amount  
31 transferred to the judges' 1985 benefit system by the appropriate board  
32 under subsection (e).

33 (g) If the requirements of subsection (b) are satisfied, credit for prior  
34 service in a public employees' retirement fund is waived.

35 (h) To the extent permitted by the Internal Revenue Code and the  
36 applicable regulations, the judges' 1985 benefit system may accept, on  
37 behalf of a participant who is purchasing permissive service credit  
38 under subsection (b), a rollover of a distribution from any of the  
39 following:

40 (1) A qualified plan described in Section 401(a) or Section 403(a)  
41 of the Internal Revenue Code.

42 (2) An annuity contract or account described in Section 403(b) of

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the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 35. IC 33-38-8-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) This section applies:**

**(1) only to a participant:**

**(A) who applies to receive a retirement benefit from the fund before January 1, 2010; or**

**(B) who:**

**(i) before January 1, 2010, separates from service;**

**(ii) is entitled to receive a retirement benefit from the fund but does not apply before January 1, 2010, to receive a retirement benefit; and**

**(iii) does not earn any service credit in the fund after December 31, 2009; and**

**(2) only in state fiscal years beginning after June 30, 2010.**

**(b) If a salary increase is provided in a particular state fiscal year under IC 33-38-5-8.1, the monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which salaries are increased under IC 33-38-5-8.1(b) in that state fiscal year. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-8.1 takes effect.**

**(c) This subsection applies only if:**

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1 (1) a salary increase is not provided in a particular state fiscal  
2 year under IC 33-38-5-8.1; and

3 (2) the salary of a judge is increased under IC 33-38-5-6,  
4 IC 33-38-5-8, or any other provision enacted by the general  
5 assembly in the state fiscal year.

6 The monthly benefit payable under this chapter to a participant  
7 described in subsection (a) shall be increased by the same  
8 percentage by which the salary being paid for the office that the  
9 participant held at the time of the participant's separation from  
10 service is increased under IC 33-38-5-6, IC 33-38-5-8, or any other  
11 provision enacted by the general assembly. The percentage  
12 increase shall be applied to the monthly benefit (including any  
13 previous increases to the monthly benefit received under this  
14 section or under any other provision) received by the participant  
15 as of June 30 of the immediately preceding state fiscal year. The  
16 percentage increase to the monthly benefit takes effect at the same  
17 time that the salary increase under IC 33-38-5-6, IC 33-38-5-8, or  
18 any other provision enacted by the general assembly takes effect.

19 (d) An increase payable under this section may not include any  
20 amount based on the percentage by which any salary provided by  
21 a county or counties under IC 36-2-5-14 or IC 36-3-6-3(c) is  
22 increased.

23 SECTION 36. [EFFECTIVE JULY 1, 2008] (a) IC 5-10.2-3-1.2, as  
24 amended by this act, applies to a member of the public employees'  
25 retirement fund who purchases service credit after December 31,  
26 2008.

27 (b) IC 5-10.3-3-1, as amended by this act, applies to  
28 appointments to the board of the public employees' retirement  
29 fund that are made after December 31, 2008.

30 (c) IC 5-10.3-6-8, IC 5-10.3-6-8.5, and IC 5-10.3-6-8.9, all as  
31 amended by this act, apply to members who retire after December  
32 31, 2008.

33 (d) IC 5-10.3-7-4.5, as amended by this act, applies to benefits  
34 provided after December 31, 2008, based on out-of-state service  
35 credit purchased under IC 5-10.3-7-4.5.

36 (e) IC 5-10.3-7-4.6, as amended by this act, applies to benefits  
37 provided after December 31, 2008, based on service credit for prior  
38 service purchased under IC 5-10.3-7-4.6.

39 (f) IC 5-10.3-7-5, as amended by this act, applies to benefits  
40 provided after December 31, 2008, based on service credit for prior  
41 service purchased under IC 5-10.2-7-5.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 329, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is made to Senate Bill 329 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senators Deig, Hume and Tallian be added as coauthors of Senate Bill 329.

KRUSE

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 329, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 329 as introduced.)

MEEKS, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Simpson be added as coauthor of Engrossed Senate Bill 329.

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## SENATE MOTION

Madam President: I move that Senator Mishler be added as second author of Engrossed Senate Bill 329.

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 329, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) ~~Except as provided in subsection (b);~~ **For a member of:**

- (1) the Indiana state teachers' retirement fund; or**
- (2) the public employees' retirement fund who retires before January 1, 2009;**

"vested status" as used in this article means the status of having ten (10) years of creditable service.

**(b) For a member of the public employees' retirement fund who retires after December 31, 2008, "vested status" as used in this article means the status of having at least eight (8) years of creditable service.**

~~(b)~~ **(c)** In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under IC 5-10.3-7-2(1), "vested status" means the status of having:

- (1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;
- (2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or
- (3) after December 31, 2008, at least ~~ten (10)~~ eight (8) years of creditable service as a member of the fund based on a**

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combination of service as an elected county official and as a full-time employee in a covered position.

~~(c)~~ **(d)** In the case of a person whose term of office commences after the election on November 5, 2002, as Auditor of State, Secretary of State, or Treasurer of State, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

SECTION 2. IC 5-10.2-3-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. (a) **After December 31, 2008**, a member who has earned at least:

- (1) eight (8) years of service in a position covered by PERF; or**
- (2) ten (10) years of service in a position covered by ~~PERF~~, TRF** or a combination of the two (2) funds;

may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

- (1) Contributions that are equal to the product of the following:
  - (A) The member's salary at the time the member actually makes a contribution for the service credit.
  - (B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.
  - (C) The number of years of service credit the member intends to purchase.

- (2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

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(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 3. IC 5-10.2-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This subsection applies to:

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- (1) members of the public employees' retirement fund who retire before July 1, 1995; and
- (2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, and to members of the public employees' retirement fund who retire after June 30, 1995, **and before January 1, 2009**, except as provided in section 1.7 of this chapter. A member is eligible for normal retirement if:

- (1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

**(c) This subsection applies to a member of the public employees' retirement fund who retires after December 31, 2008. A member is eligible for normal retirement if:**

- (1) the member is at least sixty-five (65) years of age and has at least eight (8) years of creditable service;**
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or**
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.**

~~(c)~~ **(d)** A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

~~(d)~~ **(e)** A member who is eligible for normal or early retirement is entitled to choose a retirement date on which the member's benefit begins if the following conditions are met:

- (1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.
- (2) The date must be after the cessation of the member's service and be the first day of a month.
- (3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date

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that is the first of the month after the time the member became incompetent.

SECTION 4. IC 5-10.2-4-1.7, AS AMENDED BY P.L.88-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.7. (a) This section applies only to members of the public employees' retirement fund who retire after June 30, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 2 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as an elected county official; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC ~~5-10.2-1-8(b)(3)~~ **IC 5-10.2-1-8(c)(3)**) and meets the requirements of section 1 of this chapter.

SECTION 5. IC 5-10.3-3-1, AS AMENDED BY P.L.62-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The board is composed of six (6) trustees.

(b) Five (5) of the trustees shall be appointed by the governor, as follows:

(1) One (1) must be a member of the fund with at least ~~ten (10)~~ **eight (8)** years of creditable service.

(2) Not more than three (3) may be members of the same political party.

(3) One (1) must be:

(A) a:

(i) member of the fund or retired member of the fund; or

(ii) member of a collective bargaining unit of state employees represented by a labor organization; or

(B) an individual who is:

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- (i) an officer or a member of a local, a national, or an international labor union that represents state or university employees; and
- (ii) an Indiana resident.

(c) The director of the budget agency or the director's designee is an ex officio voting member of the board. An individual appointed under this subsection to serve as the director's designee:

- (1) is subject to the provisions of section 3 of this chapter; and
- (2) serves as a permanent designee until replaced by the director.

(d) The governor shall fill by appointment vacancies on the board in the manner described in subsection (b).

(e) In making the appointments under subsection (b)(1) or (b)(2), the governor may consider whether at least one (1) trustee is a retired member of the fund under subsection (b)(3)(A)(i).

SECTION 6. IC 5-10.3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

- (1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.
- (2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.
- (3) Stop the political subdivision's participation in the fund by:
  - (A) selling all of the political subdivision's assets; or
  - (B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

- (1) The withdrawing political subdivision has provided written notice of the following to the board:
  - (A) The withdrawing political subdivision's intent to cease participation.
  - (B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.
- (2) The expiration of:
  - (A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that

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ceases to exist as a political subdivision; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through (h).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny a political subdivision permission to withdraw if the denial is necessary to achieve compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 7. IC 5-10.3-6-8.5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.5. (a) This section only applies if:

(1) certain employees of a state university in a departmental, occupational, or other definable classification involved in health care are terminated from employment with the state university as a result of:

(A) a lease or other transfer of university property to a nongovernmental entity; or

(B) a contractual arrangement with a nongovernmental entity to perform certain state university functions;

(2) the state university requests coverage under this section from the board; and

(3) the board approves the request.

(b) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The state university has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state university to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state university fully complies with subsection (c).

(c) A member who is an employee of the state university described in subsection (a) as of the date of the notice under subsection (b) and who is listed in the notice under subsection (b) is vested in the pension portion of the member's retirement benefit. The state university must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state university must be made in a lump sum or in a series of payments determined by the board.

(d) A member who is covered by subsection (c) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has less than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(e) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September

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1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 8. IC 5-10.3-6-8.9, AS ADDED BY P.L.158-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:

- (1) a lease or other transfer of state property to a nongovernmental entity; or
- (2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

- (1) is at least fifty (50) years of age; and
- (2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

- (1) the member is at least sixty-five (65) years of age and has at least ~~ten (10)~~ **eight (8)** years of creditable service;
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

- (1) The governor has requested coverage under this section and provided written notice of the following to the board:
  - (A) The intent of the state to terminate the employees from employment.
  - (B) The names of the terminated employees as of the date that

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the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has less than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the fund under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or

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contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 9. IC 5-10.3-7-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually

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makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

- (1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or
- (2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 10. IC 5-10.3-7-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.6. (a) Subject to the provisions of this section, a member may purchase service credit for

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the member's prior service in a position covered by the 1925 police pension fund under IC 36-8-6, the 1937 firefighters' pension fund under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5 if the member meets the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has not attained vested status in and is not an active member of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund.

(3) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member has received verification from the fund that the service in the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund is, as of that date, valid.

(b) At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section.

(c) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

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(d) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 11. IC 5-10.3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A member who:

- (1) enters the United States armed services;
- (2) leaves ~~his~~ **the member's** contributions in the fund;
- (3) except as provided in subsection (c), resumes service with ~~his~~ **the member's** employer within one hundred twenty (120) days after ~~his~~ **the member's** unconditional discharge; and
- (4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if ~~he~~ **the employee:**

- (1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after ~~his~~ **the employee's** unconditional discharge; and
- (2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's

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discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

- (1) The member has at least one (1) year of credited service in the fund.
- (2) The member serves on active duty in the armed services of the United States for at least six (6) months.
- (3) The member receives an honorable discharge from the armed services.
- (4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

- (i) The member's salary at the time the member actually makes a contribution for the service credit.
- (ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.
- (iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

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However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit."

Page 23, after line 12, begin a new paragraph and insert:

"SECTION 36. [EFFECTIVE JULY 1, 2008] **(a) IC 5-10.2-3-1.2, as amended by this act, applies to a member of the public employees' retirement fund who purchases service credit after December 31, 2008.**

**(b) IC 5-10.3-3-1, as amended by this act, applies to appointments to the board of the public employees' retirement fund that are made after December 31, 2008.**

**(c) IC 5-10.3-6-8, IC 5-10.3-6-8.5, and IC 5-10.3-6-8.9, all as amended by this act, apply to members who retire after December 31, 2008.**

**(d) IC 5-10.3-7-4.5, as amended by this act, applies to benefits provided after December 31, 2008, based on out-of-state service credit purchased under IC 5-10.3-7-4.5.**

**(e) IC 5-10.3-7-4.6, as amended by this act, applies to benefits provided after December 31, 2008, based on service credit for prior service purchased under IC 5-10.3-7-4.6.**

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**(f) IC 5-10.3-7-5, as amended by this act, applies to benefits provided after December 31, 2008, based on service credit for prior service purchased under IC 5-10.2-7-5."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 329 as printed January 25, 2008.)

CRAWFORD, Chair

Committee Vote: yeas 20, nays 0.

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